

In the
Indiana Supreme Court



IN THE MATTER OF THE)
)
APPROVAL OF LOCAL RULES)
)
FOR ST. JOSEPH COUNTY)

Case No. 71S00-1308-MS- 521

ORDER APPROVING AMENDED LOCAL RULES

The judges of the St. Joseph Circuit and Superior Courts request the approval of an amended local rule for special judge selection in accordance with Ind. Trial Rule 79. Attached to this Order is the proposed amended local rule.

Upon examination of the proposed rule amendment requested by the St. Joseph Circuit and Superior Courts, this Court finds that the proposed rule amendments, LR71-TR79-216 complies with the requirements of Ind. Trial Rule 79, and accordingly, should be approved.

IT IS, THEREFORE, ORDERED by this Court that St. Joseph County Local Rule, LR71-TR79-216, set forth as an attachment to this Order, is approved effective upon the date of this Order, provided further that the rule shall be posted in the county clerk's office(s) and on the county clerk's website, if any, and on the Indiana Judicial Website.

The Clerk of this Court is directed to forward a copy of this Order to the Hon. Michael G. Gotsch, St. Joseph Circuit Court, 101 South Main Street, South Bend, IN 46601-1807; the Hon. David C. Chapleau, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. James N. Fox, St. Joseph Probate Court, 1000 South Michigan Street, South Bend, IN 46601-3426; to the Hon. J. Jerome Frese, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Elizabeth C. Hurley, St. Joseph Superior Court, 101 South Main Street, #140, South Bend, IN 46601-1807; to the Hon. Jenny Pitts Manier, St. Joseph Superior Court, 219 Lincolnway West, Mishawaka, IN 46544; to the Hon. John M. Marnocha, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Jane Woodward Miller, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Margot Fisher Reagan, St. Joseph Superior Court, 101 South Main Street, South Bend, IN 46601-1807; to the Hon. Steven I. Hostetler, St. Joseph Superior Court, 101 South Main Street, South Bend, IN

46601-1807; to the Clerk of the St. Joseph Circuit and Superior Courts; and to the Division of State Court Administration. The Clerk is also directed to post this Order on the Court's website.

The Clerk of the St. Joseph Circuit and Superior Courts is directed to enter this Order and attachment in the Record of Judgments and Orders for the Courts, to post this Order and attachment for examination by the Bar and the general public, and if available, to publish this Order and attachment on the county clerk's website.

DONE at Indianapolis, Indiana, on August 9, 2013.

A handwritten signature in black ink, appearing to read "Brent E. Dickson", written over a horizontal line.

Brent E. Dickson
Chief Justice of Indiana

Rule LR71-TR79-216. Special Judge Selection.

216.1. Selection of Agreed Special Judge. Within seven (7) days of the notation in the Chronological Case Summary of a judge granting a motion for change of judge or recusing or disqualifying from a case pursuant to T.R. 79(C) or otherwise, the parties shall attempt to select a special judge by agreement. As required by T.R. 79(D), the parties shall have seven (7) days within which to file a written agreement:

(a) selecting an eligible special judge or reporting that an agreement was not reached; or,

(b) proceeding directly under § 216.2 in a case where a change of judge has been granted or under § 216.3 in a case where the judge has recused or disqualified

If no agreement is filed within seven (7) days, the selection of a special judge shall proceed as provided by § 216.3 of this local rule

216.2. Striking Conference When No Agreed Special Judge; When a change of judge has been granted and the parties are unable to agree upon a special judge or have agreed to proceed directly under this subsection pursuant to § 216.1, the Court shall conduct a striking conference within seven (7) days of the filing of the written agreement described in § 216.1(a). To meet the strict time requirements for the selection of a special judge under T.R. 79 and this local rule, the striking conference may be held by teleconference or telephone at the discretion of the Court. If the striking conference is not conducted within seven (7) days, selection of a special judge shall occur as provided in § 216.3.

- 216.2.1. Naming a Panel.** Prior to the striking conference, the Court shall name a panel of judges consisting of any three (3) persons eligible under T.R. 79(J) who are from Administrative District 4, or who are from a contiguous county and who have agreed to serve as special judge in courts of St. Joseph County. Absent extraordinary circumstances or good cause, the names on the panel shall be provided to the parties at least two (2) days in advance of the striking conference by telephone, facsimile or electronic transmission.
- 216.2.2. Conference Procedure.** At the striking conference, the parties (or sides) shall be afforded an opportunity to strike from the panel, and the parties (or sides) shall be prepared to strike at the conference. Where the selection of a special judge has occurred by motion of a party, the moving party (or side) shall strike first, followed by a strike by the nonmoving party (or side). After each party (or side) has made a strike, the remaining judge shall be named as the special judge.
- 216.2.3. Failure to appear; Failure to Strike.** Where a party fails to appear at the striking conference or fails to strike, the Clerk shall, not later than the 2nd business day following the striking conference, strike for the nonappearing or nonstriking party or parties. A party (or side) fails to strike when it fails or refuses to exercise a strike after being provided with an opportunity to strike at the Striking Conference

216.3. Failure of Special Judge to Accept or to Qualify; Failure to Meet Selection Deadlines; Random Selection. In the event :

- (a) a special judge who was selected by agreement fails to accept after being selected or is otherwise disqualified or excused from the case, or
- (b) the striking conference is not conducted in a timely manner or fails to produce a special judge, or
- (c) the parties stipulate to the random selection of a special judge, or
- (d) the judge before whom the case was pending has recused or disqualified,

the regularly presiding judge shall direct the Clerk to randomly select a successor special judge from a list of eligible judicial officers, which may include judges, magistrate judges or senior judges.

216.4. Acceptance; Disqualification; Ineligibility. A special judge selected pursuant to § 216.3. of this rule must accept jurisdiction unless disqualified pursuant to the Code of Judicial Conduct or excused from service by the Supreme Court of Indiana. In the event no judicial officer within Administrative District 4 is eligible to serve as special judge or the particular circumstances dictate the selection of a special judge by the Supreme Court of Indiana, a regularly presiding judge of the court in which the matter is pending shall certify the matter to the Supreme Court of Indiana for appointment of a special judge.

216.5. Discontinuation of Service as Special Judge. In the event a special judge who has assumed jurisdiction thereafter fails to act or notifies the parties that he or she no longer can serve as special judge, a regularly presiding judge of the court in which the case is pending shall assume jurisdiction; provided such judge has not previously served in the case and is otherwise eligible to serve. If the regularly presiding judge cannot assume jurisdiction under this section, selection of a successor special judge shall proceed pursuant to T.R. 79(D) and this rule.